

## REMARKS

It is assumed that the Examiner means to reject claims 3, 10-12, 20, 27-29 under Section 103(a) over McCue et al. in view of Cohen, based on the explanation in section 6 of the office action. If this is not the case, it is respectfully submitted that the Sect. 103 rejections are not proper, in that Cohen alone does not provide any teaching, suggestion or motivation to produce the structure as required in the independent claims on which these claims depend.

The Examiner cites the McCue et al. reference as anticipating the majority of the claims, including the two independent claims. It is submitted that this rejection is not well founded, in that McCue et al. does not teach each and every element as set forth in the claims, either expressly or inherently described. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and MPEP 2131.01.

Claim 1 requires "basket attachment means for removable attachment of said main body to said basket of said cart", and claim 18 has very similar language. Contrary to the statements of the Examiner, there are no such structural means taught by McCue et al. In the explanation of the rejection (section 3), the Examiner first refers to elements 44 and 42 of McCue et al., but these are a peg and a pivoting arm, respectively, which are attached to the body 22 of the McCue et al. device. (col. 6, lines 19-38), and which have no function related to attaching the main body to anything. The Examiner later references col. 5, lines 14-17, but this section of the McCue et al. disclosure does not even make grammatical sense ("The body mounts with the basket 12 and the frame 38 of to form the cart 10 by use of standard fasteners ..." [sic]). At best this section states that the body, the basket and the frame in combination constitute the cart as envisioned, it does not state that the body is mounted to the basket.

Examination of Figure 2 of McCue et al. shows that the body 22 is supported from beneath by the frame 38, castors 34 and wheels 35, all components of the standard cart 10, and in col. 4, lines 57-60, it is expressly stated that the “casters 34 and wheels 35 mounted to the frame 38 support the full weight of the body 22 and its contents.” The frame 38 extends the entire length of the body 22 and would readily support the body 22 without any attachment to the basket 12. Thus, there is no teaching that the main body is attached to the basket of the cart, and there can be no inference either because of this language. Attaching the body 22 to the cart 10 would be superfluous given the structure shown in the McCue patent.

This same analysis further indicates that the device of McCue et al. does not have the main body “suspended from the front of said cart” as further required by the claims. The McCue et al. body 22 is directly supported from beneath by the frame 38, and there is no teaching, suggestion or motivation to suspend the body 22 from the basket 12. The Examiner also states that element 30 of McCue et al. anticipates this requirement that the main body be suspended from the front of the cart, however element 30 of McCue et al. are wheels that are distinct elements from body 22 (col. 4, lines 53+) and as such the main body 22 in McCue et al. is not suspended from the front of the cart, but rather is supported by it.

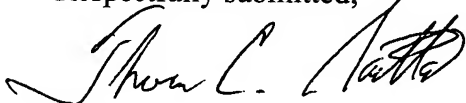
Nor does McCue et al. in view of Cohen provide a valid basis for rejection of any claims under Section 103. Cohen does show a suspended device (a basket) for use with a shopping cart, where the device is mounted onto the basket of the cart, but there is no suggestion, motivation or teaching to do so. In the structure shown by McCue et al., there is no need to provide hook members similar to elements 64 of Cohen, since provision of such elements would add nothing to the manner of support of the body 22 by the frame 38. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also

suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) and MPEP 2143.01. Since the device of Cohen has no other means of support, the hooks 64 are required. If, for example, the basket 10 of Cohen was designed to sit within the child seat of the cart, then there would be no need for the hooks 64. Thus Cohen does not provide any suggestion for the use of hook elements on a structure similar the McCue et al. device.

For these reasons it is submitted that McCue et al., alone or in combination with Cohen, does not anticipate nor make obvious the invention as claimed.

It is respectfully submitted that the claims as originally presented are patentable, on the basis of the above remarks, and reconsideration and subsequent passage for allowance is hereby requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas C. Saitta", is written over the typed name.

Thomas C. Saitta, Reg. No. 32102  
Attorney for Applicant

Rogers Towers, P.A.  
1301 Riverplace Blvd.  
Suite 1500  
Jacksonville, FL 32207  
904-346-5518  
904-396-0663 (fax)